IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 12227 of 2004

Between:

The Jaladanki Primary Agriculture Coop. Society Limited., [Regd.No.V402] Jaladanki,
Jaladanki Mandal, Nellore District, rep. by its Secretary , P.Venkateswarlu,
s/o Ramanaiah, Aged about 45 years

..... PETITIONER

AND

1 The Joint Registrar/District Cooperative officer Nellore District, Nellore
2 The Deputy Registrar-Officer on special Duty Nellore District, Cooperative Central Bank, Nellore
and Enquiry officer, Jaladanki PACS

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction more particularly one in the nature of Writ of Mandamus , to declare the impugned order dt. 1/07/2004 in Rc.No.2318/04/C of the 1st respondent as illegal, arbitrary, and double jeopardy and to consequently set aside the same and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.R.MACHAVARAM

Counsel for the Respondent No.: GP FOR COOPERATION

The Court made the following :

ORDER:

The secretary of the petitioner-society filed this Writ petition stating that an enquiry under Section 51 of the A.P. Co-Operative Societies Act, 1964 was conducted against the affairs of the society. The Enquiry Officer submitted a report stating that as per the records made available to him, an amount of Rs. 8.11 lakh was misappropriated but the actual amount could not be arrived at. Therefore, a further enquiry was ordered by securing the entire records and submit a final report to initiate follow up action on the findings of the enquiry. The successive Divisional Co-operative Officer, Kavali in his report stated that the amount of Rs.8.11 lakh reported as misappropriated earlier, was also accounted for in the books of accounts furnished later by the Secretary and as such, there is no misappropriation of funds in the society.

The first respondent as per the instructions of the Commissioner of Co-Operation decided to review the matter once again. Therefore, the first respondent ordered a fresh enquiry into the affairs of the society with reference to its management and its working in general and the allegations of irregular loaning of the management in particular. The petitioner being aggrieved by the order of the first respondent dated 01.07.2004 approached this Court through this writ petition praying to issue a Writ of Mandamus to declare that the order dated 01.07.2004 passed by the first respondent as illegal, arbitrary and leading to double jeopardy and consequently to set aside the same.

The enquiry was initially ordered to probe into the affairs of the petitioner-society and the Divisional Co-operative Officer, Kavali was authorized to conduct the enquiry and submit a report. The Enquiry Officer through his report dated 13.02.2002 mentioned that as per the records made available to him an amount of Rs.8.11 lakh was misappropriated and actual amount could be arrived at only after securing the records in full. After receipt of the said report, the first respondent instructed the enquiry Officer through letter dated 07.03.2002 to secure all the records and submit his final report. The enquiry Officer through his further report dated 31.03.2004 stated that an amount of Rs.8.11 lakh reported as misappropriated earlier was also accounted for in the books of accounts, finalized later by the Secretary and reported that there is no misappropriation of funds in the society. The report of Enquiry Officer on the aspect that he verified all the records of the society as instructed by the first

respondent and that he did not notice any financial irregularities in addition to the amount initially detected at Rs.8.11 lakh, was silent. After, a videoconference with the Commissioner of Co-operation and in pursuance of the instructions of the Commissioner, the first respondent ordered a fresh enquiry through another Deputy Registrar to probe into the affairs of the society with reference to its management, its working in general and the allegations of irregular loaning by the management in particular.

The scope of the subsequent enquiry is very wide and it covers the aspects regarding not only the financial irregularities, but also the general working of the society and its management.

The learned counsel for the petitioner represented that the order for conducting second enquiry leads to double jeopardy; and the first respondent ought not have ordered for second enquiry. He also relied on a Judgment of a Division Bench of this Court in ***THE PRIMARY AGRICULTURAL CO-OPERATIVE SOCIETY REPRESENTED BY ITS PRESIDENT S. RANGAREDEDY V. B.MALLAREDDY AND OTHERS***.

The Division Bench while considering the scope of Section 51 of the A.P. Co-operative Societies Act, 1964 held that though the Registrar has power to initiate enquiry into irregularities committed by the society, no one can be subjected to the second enquiry and successive enquiries in respect of the very same allegations, which is hit by the theory of doubt jeopardy.

There is no dispute regarding the principle laid down by the Division Bench, but the facts and circumstances of the case covered by the above decision are different from the facts and circumstances of this case.

In the present case, an enquiry of wider aspect has been ordered to probe not only into the financial irregularities but also the management and general working of the society.

In the light of the above circumstances, I do not find merits in the Writ and the petitioner is not entitled to any relief in the nature of Writ of Mandamus.

Hence, the writ petition is dismissed at the admission stage. No order as to costs.

G.YETHIRAJULU,J

16-08-2004.

KLP

To

1 The Joint Registrar/District Cooperative officer Nellore District,

Nellore

2 The Deputy Registrar-Officer on special Duty Nellore District,

Cooperative Central Bank, Nellore
and Enquiry officer, Jaladanki PACS

3 2CCs to G.P. for Co-operation, High Court building,

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